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COMMENTS RE: 49 CFR Part 391
Docket No. FHWA-97-2759 ⁴⁶
HIN 2125-AE19
Federal Highway Administration (FHWA), DOT
Advance Notice of Proposed Rulemaking

SUBMITTED BY: Patricia J. Birch
Rafael Ciura
Gisselle De Velasco
Ifta Hafidh
Sihul Lares

The comments provided herein are specifically limited to Florida, South Florida, in particular.

In the State of Florida, tests to obtain the commercial driver's license are available in English and Spanish. The test is administered in other than the native language of English due to the demographics of the population, a high percentage of the population has Spanish, or some other language, as their native tongue. Due to the demographics, tests are administered in Spanish, permitting numerous potential drivers to understand the essence of the test in a more comprehensive manner rather than a limited understanding due to a language barrier. Primary emphasis, and rightly so, is on testing the understanding of driving laws/regulations/symbols of the potential licensee, rather than being an English test.

In South Florida, the foregoing is more acute, where almost half the population has a native tongue other than English.

In addition, a large percentage of law enforcement officers in South Florida are bilingual. Should an event arise where a driver is not able to effectively communicate with a law enforcement officer who speaks only English, a bilingual officer is likely available on short notice.

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Driving is primarily concerned with a comprehensive understanding of the relationship a driver and his/her vehicle has with the surroundings, including symbols/signs, pedestrians, emergency vehicles, other drivers, obstacles, property. A driver is tested for his/her understanding of symbols/signs, the rights of pedestrians, the necessary yielding to emergency vehicles, driving defensively with regard to other drivers and obstacles (weather element, roadway work) and respect of property, either personal or real.

Signs/symbols permit any driver to comprehend a significant amount of information in one symbol, regardless of their native language. A thorough understanding of the signs/symbols is requisite to safe driving as is knowledge of the rights of pedestrians and the need for emergency vehicles to have the right of way. Driving defensively, for commercial drivers, is best taught at schools of instruction. A comprehensive understanding of defensive driving is difficult to test, regardless of the language in which the test is administered.

We identified stakeholders in this issue to be:

- Drivers of commercial vehicles
- Employers of commercial-licensed drivers
- Law enforcement officers
- General population

We surveyed stakeholders in each category; a summary of the results are discussed on the following pages.

EMPLOYERS OF COMMERCIAL-LICENSED DRIVERS:

A number of companies were identified that employ commercial-licensed drivers, either as company employees or independent companies.

In summary, there was some difference of opinion:

Companies with broad operations, deliveries nationwide, typically hire large commercial delivery operators and depend on those delivery operators to provide able drivers who are familiar with the proposed destination. It is a requirement for these large companies that the driver understands the cargo he/she has signed for and is responsible for delivering same; company forms are primarily in English and it is presumed the driver has a sufficient understanding of English.

Contrast the foregoing with business operators whose business is primarily local, south Florida. Drivers are expected to take responsibility for the cargo/merchandise to be delivered, but their primary language is not as important. These business operators report that in South Florida, most of the truck drivers are other than English-speaking. Additionally, a high percentage of law enforcement officers are, at least, bilingual. Therefore, they are comfortable hiring commercial drivers who do not necessarily have English proficiency, but understand the area where they operate as deliverers of merchandise.

There were no known incidents where a safety problem occurred due to an insufficient understanding of the English language.

There was a difference of opinion on the issue of making the current regulation less restrictive. Among large operators, less restrictive regulation in Florida was considered practical due to the population demographics.

However, one company has a newly instituted policy that any new hires of company employees must be proficiently bilingual, including drivers. This company policy was instituted because most drivers are limited to the Spanish language, the company president does not speak Spanish, yet wants the ability to communicate with drivers.

GENERAL PUBLIC

The primary concern the general public has is safety. However, they tend to view safety in terms of the driver's ability to operate and safely maneuver the vehicle on crowded roadways and the condition of the vehicle being driven.

Commercial-licensed drivers must have the ability to safely operate trucks that are considerably larger than private vehicles and that could cause significant damage to life and property should there be an accident.

Many drivers are more concerned with the condition of many of the commercial vehicles occupying the same roadways as private vehicles. There have been numerous news reports on the poor condition of many commercial vehicles and the harm that could result from a lack of maintenance. One example is truck tires in poor condition can unravel and through off pieces at high speed that could cause accidents in degrees from minor to fatal.

In summary, many in the general public focused on safety issues that were related to vehicle condition rather than language.

SUMMARY

The FHWA's original intent was that enforcement of the current law should be carried out through the motor carrier employer. The employer should know the skills necessary for safe delivery of merchandise using the roadways. Reportedly, the law states that "it was the employer's responsibility to evaluate the driver's proficiency with the English language in the context of his or her duties and responsibilities".

In the state of Florida, it is reasonable that drivers are required to possess basic functional communications skills and comprehension ability in order to ensure the safety of the drivers and pedestrians that must share the same roadways. It is reasonable that a set of performance-oriented standards that are directly related to the skills and communication ability necessary for a driver of commercial vehicles to set a standard of safety for all drivers should be incorporated to the obtaining of a commercial driver's license (CDL). Likely, the level of skill necessary should be obtained through instruction courses that prepare drivers for the DCL test.